

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6237

BILL NUMBER: SB 78

NOTE PREPARED: May 2, 2011

BILL AMENDED: Apr 29, 2011

SUBJECT: Identification Requirements for Alcohol Purchases.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR: Rep. Steuerwald

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Identification:* The bill makes it a Class B misdemeanor for an alcoholic beverage permittee or an employee or agent of the permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person who is or reasonably appears to be less than 40 years of age an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce specified identification showing that the person is at least 21 years of age.

(Current law makes it a Class B misdemeanor for an alcoholic beverage permittee or an employee or agent of the permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce specified identification showing that the person is at least 21 years of age.)

Agency Authority: The bill also urges the Legislative Council to assign the topic of which state agency should have authority to control dangerous alcohol products to an existing study committee for study.

Random Unannounced Inspection: The bill provides that only the Alcohol and Tobacco Commission (ATC) may conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with certain alcoholic beverage laws. (Under current law, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may also conduct random unannounced inspections.)

Guest Days: It provides that the holder of a club permit for alcoholic beverages may designate as "guest day" or "guest days" three or fewer days in a month or nine or fewer consecutive days in a quarter. (Current law allows a holder of a club permit to designate one day each month as a "guest day".)

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Agency Authority:* The bill urges the Legislative Council to assign an additional topic to an existing study committee for study. Additional expenditures would result only if consideration of the topic resulted in additional meetings of a study committee.

Explanation of State Revenues: *Identification:* The bill could potentially reduce the number of alcoholic beverage permittees or employees or agents of a permittee convicted of recklessly, knowingly, or intentionally selling, bartering, exchanging, providing, or furnishing an alcoholic beverage to another person, a Class B misdemeanor. The bill removes a criminal or administrative defense that the individual receiving the alcoholic beverage reasonably appeared to be more than 50 years of age, and instead makes the reasonable appearance of the person as over 40 years of age an element of the crime. Any reduction is expected to be minimal. It appears that no misdemeanor charges have been filed at the state level since this offense was effective on July 1, 2010.

If fewer court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would decrease. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

For cases filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Random Unannounced Inspection: If local agencies are not allowed to perform random unannounced inspections and the ATC does not increase the number of inspections performed, fewer actions may occur and fine revenue may be reduced. Statewide, some local law enforcement agencies perform random unannounced inspections which may result in criminal charges or administrative actions. (Generally, administrative actions are turned over to the ATC.) Criminal fines are deposited in the Common School Fund, while administrative fines are placed in the state General Fund.

Explanation of Local Expenditures: *Identification:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Identification:* If fewer court actions occur, local governments would receive less revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: ATC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: E. Dunsmore, ATC; Major Robin Poindexter, ATC.

Fiscal Analyst: Karen Firestone, 317-234-2106.